



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC FF

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed on October 21, 2015. The Applicant filed seeking that the Respondent be ordered to comply with the *Act*, Regulation, and/or tenancy agreement and to recover the cost of her filing fee.

The hearing was conducted via teleconference and was attended by the Applicant and the Respondent. Each person gave affirmed testimony. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Applicant submitted 5 packages of documentary evidence to the Residential Tenancy Branch (RTB). That evidence was received at the RTB as follows: 49 pages of documents plus 2 pages were submitted on November 17, 2015; 57 pages of documents were received on November 13, 2015 which included the Amended Application; 30 pages of documents were submitted on November 25, 2015; and 30 pages of documents were submitted on November 27, 2015.

The Applicant affirmed that she served the Respondent with copies of the same documents that she had served the Residential Tenancy Branch (RTB). The Respondent acknowledged receipt of those documents. As such, I accepted those documents as evidence for these proceedings.

Both parties were provided with the opportunity to present relevant oral evidence relating to the issue of jurisdiction. Following is a summary of those submissions and includes only that which is relevant to the issue of jurisdiction.

Issue(s) to be Decided

1. Does this matter fall within the jurisdiction of the *Residential Tenancy Act (the Act)*?

Background and Evidence

The Applicant submitted a copy of a "Room Rental Agreement" which she stated she signed agreeing to on April 1, 2015.

The Respondent testified that she is the only person named on the lease as a tenant of the house. She submitted that she alone rents the 3 bedroom single detached house and that she takes in roommates to help her pay the rent. She stated that she shares all areas of the house, excluding her bedroom, with her roommates; such as the kitchen, bathrooms, living room. The Respondent asserted that she has no authority to act as an Agent for the Landlord.

The definition of a landlord was read from section 1 of the *Act* to which the Respondent stated that she was not a landlord and was not an Agent.

The Applicant confirmed that she agreed that the Respondent did not meet the definition of a landlord as read during the hearing. However, she asserted that based on her opinion the relationship between her and the Respondent was that of a tenant and landlord because she paid rent to the Respondent.

Analysis

As read during the hearing, section 1 of the *Act* defines a landlord, in relation to a rental unit, to include any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) **a person, other than a tenant occupying the rental unit, who**
 - (i) is entitled to possession of the rental unit, and

- (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the rental unit;
- (d) a former landlord, when the context requires this;

[My emphasis added by bold text]

*Policy Guideline*13 defines an occupant as follows:

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the original tenancy agreement, unless all parties (owner/landlord/agent, tenant, occupant) agree to enter into a tenancy agreement to include the new occupant as a tenant.

After careful consideration of the foregoing and on a balance of probabilities I find as follows:

The undisputed evidence was the Applicant entered into an agreement with an existing tenant, the Respondent, to occupy a bedroom and share common areas of the apartment based on a "Room Rental Agreement" with that tenant. The undisputed evidence was the Respondent has no authority to act as an Agent to the owner or to the Respondent's landlord.

Notwithstanding the Room Rental Agreement submitted into evidence, there was no written agreement signed by the owner, landlord or agent authorizing the Applicant to be added to the tenancy agreement to be a tenant. Accordingly, I conclude that the Respondent does not meet the definition as a landlord, pursuant to section 1 of the *Act*.

Based upon the aforementioned, I find the Applicant to this dispute is not a tenant; rather she is an occupant, pursuant to Policy Guideline 13. Thus, there is not a tenancy agreement in place between the Applicant and Respondent to which the *Residential Tenancy Act* applies.

In light of the above, it is my determination that the Applicant and Respondent have no rights or obligations to each other under the *Residential Tenancy Act*. Therefore, I do not have jurisdiction to resolve a dispute between the parties.

Conclusion

I declined to hear these matters for want of jurisdiction. The Applicant is at liberty to seek remedy through the court with competent jurisdiction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 09, 2015

Residential Tenancy Branch

